

**APPELLANTS' BRIEF ON APPEAL**

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**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: )

Vladimir Bykovnikov )

Examiner: Chuong A. Ngo

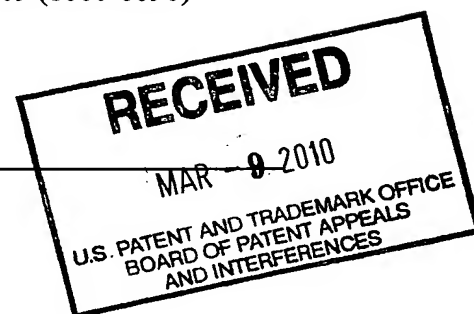
Serial No.: 10/594,547 )

Group Art Unit: 2417

Filed: September 28, 2006 )

Docket: P22709 (1000-0096)

For: Method and Apparatus for  
Synchronization of Base Stations  
in a Broadband Wireless Access  
System )



**APPELLANTS' BRIEF ON APPEAL**

Mail Stop Appeal Brief  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Appellants hereby appeal to the Board of Patent Appeals and Interferences from the Examiner's rejection of claims 1, 3-4, 6, 9, 12, 15, 28, 30-34 in the final office action mailed on July 28, 2009 in the above-identified patent application (hereinafter, "the final office action"). A timely notice of appeal was mailed to the United States Patent & Trademark Office on November 30, 2009 and it was received on December 7, 2009.

**APPELLANTS' BRIEF ON APPEAL**

Serial Number: 11/594,547

Filing Date: September 28, 2006

Title: Method and Apparatus for Synchronization of Base Stations in a Broadband Wireless Access System

Assignee: Intel Corporation

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Dkt: P22709 (INTEL)

**1. REAL PARTY IN INTEREST**

The real party in interest of the above-captioned patent application is the assignee, INTEL CORPORATION.

**2. RELATED APPEALS AND INTERFERENCES**

None.

**3. STATUS OF THE CLAIMS**

**A. Current Status of Claims**

1. Claims pending: 1, 3-4, 6, 9, 12, 15, 28, and 30-34.
2. Claims canceled: 2, 10-11, 17-27, and 29.
3. Claims withdrawn from consideration, but not canceled: None.
4. Claims allowed: None.
5. Claims rejected: 1, 3-4, 6, 9, 12, 15, 28, and 30-34.
6. Claims objected to: None.

**B. Claims on Appeal**

Claims 1, 3-4, 6, 9, 12, 15, 28, and 30-34 are the subject of this appeal. No other claims are pending.

#### **4. STATUS OF AMENDMENTS**

None.

#### **5. SUMMARY OF THE CLAIMED SUBJECT MATTER**

Independent claim 1 of the present application is directed to a computer implemented method comprising: (i) acquiring information about interfering base stations in a vicinity of a base station of interest (BSOI); (ii) choosing one of said interfering base stations as a master base station for said BSOI, wherein a master base station is a base station to which another base station is to synchronize; wherein choosing one of said interfering base stations as a master base station includes: (a) when said interfering base stations are from multiple sync groups, selecting a sync group from said multiple sync groups to be a master sync group, wherein a sync group is a group of base stations that are currently synchronized with one another; (b) when said interfering base stations are all from a common sync group, identifying said common sync group as said master sync group; and (c) when said master sync group includes at least one master base station that is also one of said interfering base stations and that has a received signal strength within said BSOI that is adequate to perform accurate synchronization, assigning one of said at least one master base station as a master base station of said BSOI.

For independent claim 1, examples are disclosed in the specification as filed at, for example, page 9, line 14 through page 11, line 2; Fig. 6. The exemplary embodiments disclose a computer implemented method comprising: (i) acquiring information about interfering base stations in a vicinity of a base station of interest (BSOI) (page 9, lines 14-19; reference numeral 92 in Fig. 6); and (ii) choosing one of said interfering base stations as a master base station for said BSOI, wherein a master base station is a base station to which another base station is to synchronize (page 9, line 14 - page 11, line 2; reference numerals 94, 96, 98, 100, 102, 104, 106 in Fig. 6); wherein choosing one of said interfering base stations as a master base station includes: (a) when said interfering base

stations are from multiple sync groups, selecting a sync group from said multiple sync groups to be a master sync group (page 9, lines 19-25; references numerals 94N and 96 in Fig. 6), wherein a sync group is a group of base stations that are currently synchronized with one another; (b) when said interfering base stations are all from a common sync group, identifying said common sync group as said master sync group (page 9, lines 25-27; references numeral 94Y in Fig. 6); and (c) when said master sync group includes at least one master base station that is also one of said interfering base stations and that has a received signal strength within said BSOI that is adequate to perform accurate synchronization, assigning one of said at least one master base station as a master base station of said BSOI (page 9, line 28 – page 10, line 2; reference numerals 98Y in Fig. 6).

Independent claim 9 of the present application is directed to a base station controller (BSC) comprising: (i) a receiver to receive a list of interfering base stations associated with a base station of interest (BSOI); (ii) a controller to select a master base station for said BSOI from said list of interfering base stations, wherein a master base station is a base station to which another base station is to synchronize; and (iii) a sync group database to store data related to base station sync groups in an associated wireless network, each sync group including one or more base stations in said wireless network that are currently synchronized to one another, wherein said controller is in communication with said sync group database; wherein said controller is to: (a) when said base stations in said list of interfering base stations are from multiple sync groups, select a master sync group from said multiple sync groups; (b) when said base stations in said list of interfering base stations are from a common sync group, identify said common sync group as said master sync group; and (c) select a base station from said list of interfering base stations, that is within said master sync group, for use as a master base station for said BSOI.

For independent claim 9, examples are disclosed in the specification as filed at, for example, page 9, line 19 – page 10, line 2; page 14, line 9 through page 15, line 7; and Figs. 6 and 9. The exemplary embodiments disclose a base station controller (BSC) (page 14, lines 9-11; reference numeral 180 in Fig. 9) comprising: (i) a receiver to receive a list of interfering base stations associated with a base station of interest (BSOI) (page 14, lines 13-16; reference numeral 182 in Fig.

9); (ii) a controller to select a master base station for said BSOI from said list of interfering base stations, wherein a master base station is a base station to which another base station is to synchronize (page 14, lines 19-27; reference numeral 182 in Fig. 9); and (iii) a sync group database to store data related to base station sync groups in an associated wireless network, each sync group including one or more base stations in said wireless network that are currently synchronized to one another (page 14, line 28 through page 15, line 7; reference numeral 186 in Fig. 9), wherein said controller is in communication with said sync group database; wherein said controller is to: (a) when said base stations in said list of interfering base stations are from multiple sync groups, select a master sync group from said multiple sync groups (page 9, lines 19-25; references numerals 94N and 96 in Fig. 6); (b) when said base stations in said list of interfering base stations are from a common sync group, identify said common sync group as said master sync group (page 9, lines 25-27; references numeral 94Y in Fig. 6); and (c) select a base station from said list of interfering base stations, that is within said master sync group, for use as a master base station for said BSOI (page 9, line 28 – page 10, line 2; reference numerals 98Y in Fig. 6).

Independent claim 28 of the present application is directed to an article comprising a machine readable storage medium having instructions stored thereon that, when executed by a computing platform, operate to: (i) acquire information about interfering base stations in a vicinity of a base station of interest (BSOI); and (ii) choose one of said interfering base stations as a master base station for said BSOI, wherein a master base station is a base station to which another base station is to synchronize; wherein operation to choose one of said interfering base stations as a master base station includes operation to: (a) when said interfering base stations are from multiple sync groups, select a sync group from said multiple sync groups to be a master sync group, wherein a sync group is a group of base stations that are currently synchronized with one another; (b) when said interfering base stations are all from a common sync group, identify said common sync group as said master sync group; and (c) when said master sync group includes at least one master base station that is also one of said interfering base stations and that has a received signal strength within

said BSOI that is adequate to perform accurate synchronization, assign one of said at least one master base stations as a master base station of said BSOI.

For independent claim 1, examples are disclosed in the specification as filed at, for example, page 9, line 14 through page 11, line 2; Fig. 6. The exemplary embodiments disclose an article comprising a machine readable storage medium having instructions stored thereon (page 15, line 23 through page 16, line 5) that, when executed by a computing platform, operate to: (i) acquire information about interfering base stations in a vicinity of a base station of interest (BSOI) (page 9, lines 14-19; reference numeral 92 in Fig. 6); and (ii) choose one of said interfering base stations as a master base station for said BSOI, wherein a master base station is a base station to which another base station is to synchronize (page 9, line 14 - page 11, line 2; reference numerals 94, 96, 98, 100, 102, 104, 106 in Fig. 6); wherein operation to choose one of said interfering base stations as a master base station includes operation to: (a) when said interfering base stations are from multiple sync groups, select a sync group from said multiple sync groups to be a master sync group (page 9, lines 19-25; references numerals 94N and 96 in Fig. 6), wherein a sync group is a group of base stations that are currently synchronized with one another; (b) when said interfering base stations are all from a common sync group, identify said common sync group as said master sync group (page 9, lines 25-27; references numeral 94Y in Fig. 6); and (c) when said master sync group includes at least one master base station that is also one of said interfering base stations and that has a received signal strength within said BSOI that is adequate to perform accurate synchronization, assign one of said at least one master base stations as a master base station of said BSOI (page 9, line 28 – page 10, line 2; reference numerals 98Y in Fig. 6).

## **6. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

I. Claims 1, 3-4, 6, 9, 12, 15, 28, and 30-34 were rejected under 35 U.S.C. § 103(a) as being

unpatentable over *Weigand* (U.S. Patent No. 5784368) (hereinafter *Weigand*) in view of *Pulkkinen et al.* (U.S. Publication No. 2001/0014083) (hereinafter *Pulkkinen*).

## 7. ARGUMENT

### Rejections under 35 U.S.C. § 103(a)

#### A. Legal Principles

To support an obviousness rejection, the Examiner must show that “the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.” 35 U.S.C. § 103(a) [emphasis added]. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

“Office personnel fulfill the critical role of fact finder when resolving the *Graham* inquiries. ... Factual findings made by Office personnel are the necessary underpinnings to establish obviousness.” MPEP 2141(II) [emphasis added]. The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in *KSR* noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. *KSR Int’l v. Teleflex Inc.*, 127 S. Ct. 1727, 82 USPQ2d 1385 (2007).



In KSR, the Court quoting *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006), stated that “[R]ejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” In determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious. *Stratoflex, Inc. v. Aeroquip Corp.*, 713 F.2d 1530, 218 USPQ 871 (Fed. Cir. 1983); *Schenck v. Nortron Corp.*, 713 F.2d 782, 218 USPQ 698 (Fed. Cir. 1983). MPEP 2141.02 (I) “All words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970).

## B. Discussion

### **I. Claims 1, 3-4, 6, 9, 12, 15, 28, and 30-34 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Weigand in view of Pulkkinen.**

#### Independent Claims 1, 9, and 28

Independent claim 1 is directed to a computer implemented method. More specifically, the method comprises: (i) acquiring information about interfering base stations in a vicinity of a base station of interest (BSOI); and (ii) choosing one of said interfering base stations as a master base station for said BSOI, wherein a master base station is a base station to which another base station is to synchronize; wherein choosing one of said interfering base stations as a master base station includes: (a) when said interfering base stations are from multiple sync groups, selecting a sync group from said multiple sync groups to be a master sync group, wherein a sync group is a group of base stations that are currently synchronized with one another; (b) when said interfering base stations are all from a common sync group, identifying said common sync group as said master sync group; and (c) when said master sync group includes at least one master base station that is also one

of said interfering base stations and that has a received signal strength within said BSOI that is adequate to perform accurate synchronization, assigning one of said at least one master base station as a master base station of said BSOI.

The Pulkkinen reference was cited merely to provide a reference that explicitly discloses “multiple sync groups.”

In the final office action, the Examiner takes the position that Weigand discloses “when said interfering base stations are from multiple sync groups, selecting a sync group from said sync groups to be a master sync group, wherein a sync group is a group of base stations that are currently synchronized with one another” and “when said master sync group includes at least one master base station that is also one of said interfering base stations and that has a received signal strength within said BSOI that is adequate to perform accurate synchronization, assigning one of said at least one master base station as a master base station of said BSOI.” As will be described in greater detail below, this position is in error. Weigand does not disclose or suggest either of these claim elements.

In the rejection of claim 1 in the final office action, the Examiner takes the position that “multiple sync groups” are implicitly disclosed in Weigand as the first group of base stations A1-A5 and the second group of base stations B1-B3 in Fig. 5. However, if these groups of base stations represent the claimed “multiple sync groups” then neither of the claim elements described in the previous paragraph are disclosed in Weigand. As stated in column 5, lines 48-67 of Weigand, when a new base station C4 is added to the arrangement in Fig. 5, at time t2, the new base station will detect a first base station and sync to that base station. It goes on to state that C4 could detect and sync to either C5 or C3. The actual base station that it syncs to will depend on the “synchronization protocol” being used. As is apparent from the description, base station C4 is not first selecting a master sync group and then selecting a master base station from the master sync group as required in claim 1. Instead, base station C4 is just syncing, based on some protocol, to one of the base stations that it can detect. Therefore, Weigand does not disclose or suggest “when said interfering base stations are from multiple sync groups, selecting a sync group from said sync groups to be a master sync group, wherein a sync group is a group of base stations that are currently synchronized with

one another.” Likewise, Weigand does not disclose or suggest “when said master sync group includes at least one master base station that is also one of said interfering base stations and that has a received signal strength within said BSOI that is adequate to perform accurate synchronization, assigning one of said at least one master base station as a master base station of said BSOI.” Weigand only discloses base station C4 directly syncing to base station C5 or C3, and does not disclose C4 first selecting a sync group as a master sync group and then selecting a master base station from the master sync group. As is clear from the specification of the present application (see, e.g., page 9, line 16 to page 10, line 25), a “master base station” of another base station is the base station to which the other base station is directly synced. Therefore, in Fig. 5 of Weigand, neither of base stations C3 and C5 are “master base stations” before C4 syncs to one of them (although every other base station within the group C5-C9 and the group C1-C3 are “master base stations”). Nowhere does Weigand state that these other “master base stations” are first considered to serve as the master base station of C4 before base stations C3 and C5.

As a rationale for combining Weigand and Pulkkinen, the Examiner states that it would have been obvious to one of ordinary skill in the art to modify the Weigand invention, and have multiple sync groups, as taught by Pulkkinen, thereby providing a concept of a single site which serves a plurality of hops, as discussed by Pulkkinen. It is submitted that this rationale is confusing and does not rise to the level of “articulated reasoning” contemplated by the Supreme Court in the *KSR* case. In addition, as described above, there are factual errors in the rejection of independent claim 1 of the present application. The Examiner has therefore failed to satisfy at least two of the factual inquiries set out in the *Graham* case; that is, (a) determining the scope and contents of the prior art, and (b) ascertaining the differences between the prior art and the claims at issue.

Based on the foregoing, it is submitted that claim 1 of the present application is allowable over the combination of Weigand and Pulkkinen. Reversal of the rejection of claim 1 is therefore respectfully requested. Similar arguments apply to independent claims 9 and 28.

#### Dependent Claims

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Serial Number: 11/594,547

Filing Date: September 28, 2006

Title: Method and Apparatus for Synchronization of Base Stations in a Broadband Wireless Access System

Assignee: Intel Corporation

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Claims 3-4 and 6, claims 12 and 15, and claims 30-34 are dependent claims that depend, either directly or indirectly, from independent claims 1, 9, and 28, respectively. Consequently, these claims are allowable for at least the same reasons as their corresponding base claims. These claims also provide further bases for patentability.

**APPELLANTS' BRIEF ON APPEAL**

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**8. SUMMARY**

For the reasons advanced above, the Appellant respectfully submits that all of the pending claims are in form for allowance. Therefore, reversal of all rejections is respectfully requested.

Respectfully submitted,

Qiuming Leng

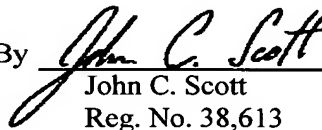
By his Representatives,

CPA Global

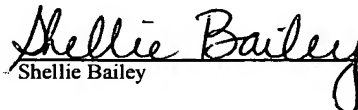
c/o CPA Global

Date: March 5, 2010

By

  
John C. Scott  
Reg. No. 38,613

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Appeal Brief, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 5th day of March, 2010.

  
Shellie Bailey

## **APPENDIX I**

### **The Claims on Appeal**

1. A computer implemented method comprising:  
acquiring information about interfering base stations in a vicinity of a base station of interest (BSOI); and  
choosing one of said interfering base stations as a master base station for said BSOI, wherein a master base station is a base station to which another base station is to synchronize;  
wherein choosing one of said interfering base stations as a master base station includes:  
when said interfering base stations are from multiple sync groups, selecting a sync group from said multiple sync groups to be a master sync group, wherein a sync group is a group of base stations that are currently synchronized with one another;  
when said interfering base stations are all from a common sync group, identifying said common sync group as said master sync group; and  
when said master sync group includes at least one master base station that is also one of said interfering base stations and that has a received signal strength within said BSOI that is adequate to perform accurate synchronization, assigning one of said at least one master base station as a master base station of said BSOI.
2. (Canceled)
3. The method of claim 1, further comprising:  
delivering an ID of said assigned master base station and a corresponding ranging rule to said BSOI.
4. The method of claim 1, wherein choosing one of said interfering base stations as a master

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base station further includes:

when said master sync group does not include a master base station that is also one of said interfering base stations and that has a received signal strength within said BSOI that is adequate to perform accurate synchronization, selecting a base station from said master sync group that is one of said interfering base stations as the master base station of said BSOI; and  
creating a new ranging rule for said selected master base station.

5. The method of claim 4, further comprising:  
delivering an ID of said selected master base station and said new ranging rule to said BSOI and said selected master base station.

6. The method of claim 1, further comprising:  
when said interfering base stations are from multiple sync groups and one of said multiple sync groups has been selected as said master sync group, giving said BSOI master status over sync groups in said multiple sync groups other than said master sync group.

7. The method of claim 6, further comprising:  
identifying synchronization chains for said sync groups in said multiple sync groups other than said master sync group, wherein each synchronization chain originates at said BSOI; and  
creating a new ranging rule for each master/slave level within each synchronization chain.

8. The method of claim 1, wherein:  
acquiring information includes receiving said information from said BSOI, wherein said information is accompanied by a request to assign a master base station to said BSOI.

9. A base station controller (BSC) comprising:  
a receiver to receive a list of interfering base stations associated with a base station of interest

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(BSOI);

a controller to select a master base station for said BSOI from said list of interfering base stations, wherein a master base station is a base station to which another base station is to synchronize; and

a sync group database to store data related to base station sync groups in an associated wireless network, each sync group including one or more base stations in said wireless network that are currently synchronized to one another, wherein said controller is in communication with said sync group database;

wherein said controller is to: (a) when said base stations in said list of interfering base stations are from multiple sync groups, select a master sync group from said multiple sync groups; (b) when said base stations in said list of interfering base stations are from a common sync group, identify said common sync group as said master sync group; and (c) select a base station from said list of interfering base stations, that is within said master sync group, for use as a master base station for said BSOI.

10-11. (Canceled)

12. The BSC of claim 9, wherein:

operation to select a base station from said list includes operation to:

when said master sync group includes at least one master base station that is also one of said interfering base stations and that has a received signal strength in said BSOI that is adequate to perform accurate synchronization, assign one of said at least one master base stations as a master base station of said BSOI.

13. The BSC of claim 12, wherein:

operation to select a base station from said list includes operation to:

when said master sync group does not include a master base station that is also one of said



interfering base stations and that has a receive signal strength within said BSOI that is adequate to perform accurate synchronization, select a base station from said master sync group that is one of said interfering base stations as the master base station of said BSOI.

14. The BSC of claim 13, wherein:

operation to select a base station from said list includes operation to:

when said master sync group does not include a master base station that is also one of said interfering base stations, create a new ranging rule for said selected master base station.

15. The BSC of claim 9, wherein said controller is configured to:

when said base stations in said list of interfering base stations are from multiple sync groups and one of said sync groups has been selected as a master sync group:

give said BSOI master base station status over sync groups in said multiple sync groups other than said master sync group;

identify synchronization chains for said sync groups in said multiple sync groups other than said master sync group, wherein each synchronization chain originates at said BSOI; and

create a new ranging rule for each master/slave level within each synchronization chain.

16. The BSC of claim 9, further comprising:

a transmitter to transmit a master base station ID and a corresponding ranging rule to said BSOI.

17-27. (Canceled)

28. An article comprising a machine readable storage medium having instructions stored thereon that, when executed by a computing platform, operate to:

acquire information about interfering base stations in a vicinity of a base station of interest

(BSOI); and

choose one of said interfering base stations as a master base station for said BSOI, wherein a master base station is a base station to which another base station is to synchronize;

wherein operation to choose one of said interfering base stations as a master base station includes operation to:

when said interfering base stations are from multiple sync groups, select a sync group from said multiple sync groups to be a master sync group, wherein a sync group is a group of base stations that are currently synchronized with one another;

when said interfering base stations are all from a common sync group, identify said common sync group as said master sync group; and

when said master sync group includes at least one master base station that is also one of said interfering base stations and that has a received signal strength within said BSOI that is adequate to perform accurate synchronization, assign one of said at least one master base stations as a master base station of said BSOI.

29. (Canceled)

30. The article of claim 28, wherein:

operation to choose one of said interfering base stations as a master base station further includes operation to:

when said master sync group does not include a master base station that is also one of said interfering base stations and that has a received signal strength within said BSOI that is adequate to perform accurate synchronization, select a base station from said master sync group that is one of said interfering base stations as the master base station of said BSOI; and

create a new ranging rule for said selected master base station.

31. The article of claim 28, wherein:

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operation to choose one of said interfering base stations as a master base station further includes operation to:

when said master sync group does not include a master base station that is also one of said interfering base stations and that has a received signal strength within said BSOI that is adequate to perform accurate synchronization, select a base station from said master sync group that is one of said interfering base stations as the master base station of said BSOI; and create a new ranging rule for said selected master base station.

32. The article of claim 31, wherein said instructions further operate to:  
deliver an ID of said selected master base station and said new ranging rule to said BSOI and said selected master base station.

33. The article of claim 28, wherein said instructions further operate to:  
when said interfering base stations are from multiple sync groups and one of said multiple sync groups has been selected as said master sync group, give said BSOI master status over sync groups in said multiple sync groups other than said master sync group.

34. The article of claim 33, wherein said instructions further operate to:  
identify synchronization chains for said sync groups in said multiple sync groups other than said master sync group, wherein each synchronization chain originates at said BSOI; and create a new ranging rule for each master/slave level within each synchronization chain.

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**APPENDIX II**

**Evidence**

None.

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**APPENDIX III**

**Related Proceedings**

None.